

Remarks

The Applicant would like to thank the Office for the careful consideration given the present application in the initial Detailed Action on the merits of the claims. With the foregoing amendments and the ensuing remarks, the Applicant has endeavored to respond most properly to each of the points raised by the Office to ensure that the specification and claims now presented are allowable in all respects. With this in mind, the Applicant respectfully requests that the Office review and allow the current specification and claims.

In brief summary, the present application was filed with 43 claims in total with claims 1 and 31 standing independently. With the current amendment, claim 1 has been canceled and claims 2-7, 11, and 32-35 have been withdrawn from consideration thereby leaving claims 8-10, 12-31, and 36-43 pending for consideration. Claim 8 has been rewritten to stand independently, and a plurality of claims have been amended for, among other things, proper dependency.

Drawings

In the Detailed Action, the Office required the submission of new corrected drawings based on the quality of the initially submitted figures. In response, formal replacement drawings are submitted herewith. Each sheet of drawings is labeled as a "Replacement Sheet" as required by 37 C.F.R. § 1.121(d). No new matter has been added. Accordingly, it is submitted that the Office's requirement in this regard has been met, and the Office's reconsideration and allowance of the drawings are respectfully requested.

The Office also objected to the drawings based on the conclusion that the drawings contained the following reference characters not mentioned in the description: 98 & 68.

However, it is respectfully submitted that each reference number was mentioned in the original description. For example, lines 8-11 on page 16 provide, “The supply source 93 can also or alternatively introduce materials and/or temperature conditioned gasses into the digestion chamber by supply tubes 98 that traverse or are integrally formed with one or more of the mixing vanes 18A and 18B.” Furthermore, on lines 12 and 13 of page 41, the original specification provides, “Similarly, a shaft sensor 66 can provide an indication of any obstruction or other malfunction of the rotatable shaft 16 and its related components.” Accordingly, the Applicant most respectfully submits that the drawings are proper in this regard.

The Office further objected to the drawings finding that not all features specified in the claims were shown in the drawings. More particularly, the Office found that the “at least one supply aperture disposed along the auger shaft” of claims 23 and 42 and the “at least one supply aperture disposed along the at least one mixing vane” of claims 24 and 43 were not shown in the drawings. However, the Applicant notes that original Figure 1 included “supply tube apertures 99” on the mixing vanes and “shaft apertures 97” disposed on the shaft. Therefore, the Applicant submits that the drawings are proper in this regard as well.

Based on the foregoing, the Applicant respectfully requests that the Office reconsider and allow the drawings.

Claim Rejections Under 35 USC § 112

The Office rejected claims 1, 8-31, and 36-43 under Section 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. More particularly, it was found that the recitation “an auger

shaft rotatably retained relative to the digestion chamber” in claims 1 and 31 was ambiguous since it implied the auger could be rotatably retained within or outside the chamber.

In reply, the Applicant has amended claim 8, which now stands independently in place of claim 1, and claim 31 to specify that the auger shaft has “a body portion rotatably retained *within* the digestion chamber” (emphasis supplied). With this, the claims are clear in requiring that the body portion of the auger shaft be disposed within the digestion chamber such that the possibility of the auger shaft being rotatably retained outside the chamber is excluded. With this, it is respectfully submitted that claims 8 and 31 comply with Section 112 in this respect.

It will be noted, however, that the amended claims require only that the body portion of the shaft be disposed within the chamber. As Figure 1, for example, makes clear, it is within the scope of the invention to have end portions of the shaft protrude from within the chamber.

The Office rejected claims 9, 14, 15, 17, 18, and 36 under 35 USC § 112 based on the conclusion that the phraseology “associated with” rendered the claims indefinite. The Office suggested “operably connected” and “operably coupled” as replacement phrases that would be acceptable. In reply, the Applicant has amended each of claims 9, 14, 15, 17, 18, and 36 incorporating the suggested language or its substantial equivalent. Accordingly, it is submitted that claims 9, 14, 15, 17, 18, and 36 are in compliance with Section 112.

Still further, the Office indicated that claim 11 appeared to be readable on the non-elected species of Figures 5-8. To expedite the consideration of the present application, the Applicant has withdrawn claims 2-7, 11, and 32-35 from consideration. Accordingly, it is submitted that the rejection thereof has been obviated. However, it is believed that independent claims 8 and 31

are generic such that Applicant will be entitled to consideration of withdrawn dependent claims 11 and 32-35 upon the allowance of the generic claims.

The Office additionally indicated that certain aspects of claim 20 were not clear, such as how the malfunction report includes an indication of the location of the system. As best understood, the Office also found that the location of the system was dependent on operator choice and, therefore, relative. In response, the Applicant has amended claim 20 by deleting “a means” and inserting “a global positioning unit retained relative to the digestion chamber” in its place.

With this, it is respectfully submitted that claim 20 is clear in this regard since it is the global positioning unit, which can be included in the malfunction sensor as noted in the specification, that enables the sensor to ascertain the location of the system and to relay the same. It is also noted that, whether the composting system is portable or not, providing an indication of the location of the system in conjunction with a malfunction report would be advantageous to repair personnel and others who may not be previously aware of the location of the system.

Regarding claim 22, the Office found that “can be” rendered the claim indefinite. In reply, the Applicant notes that the “can be” language that had been included in the claim merely indicated what could be done. Whether such an introduction of fluids would happen in actual practice would be dependent on, among other things, operator preferences and the material to be composted. Nonetheless, the Applicant has deleted “whereby selected fluids can be introduced into the digestion chamber to facilitate composting” from the claim. As a result, it is respectfully submitted that the Office’s rejection has been met.

Based on the foregoing amendments and remarks, it is submitted that the claims comply with Section 112 in all respects,. Their favorable reconsideration is respectfully requested.

Claim Rejections Under 35 USC §§ 102, 103

With respect to the patentability of the claims, the Office rejected claims 1, 16, 19, 21, 22, and 25-27 as being anticipated by U.S. Patent No. 6,071,740 to Kerouac. Claims 28 and 30 were rejected as being unpatentable under 35 U.S.C § 103 over Kerouac in view of U.S. Patent No. 4,752,038 to Takahashi et al. Claim 29 was rejected as being unpatentable under 35 U.S.C § 103 over Kerouac in view of U.S. Patent No. 4,230,282 to Haase. Therefore, claims 1, 16, 19, 21, 22, and 25-30 were rejected on their merits.

However, the Office did indicate that claims 8, 10, 12, 13, and 37-43 would be allowable if rewritten in independent form including all limitations of their base claim and any intervening claims and provided the rejections under 35 U.S.C § 112 were overcome. Furthermore, the Office found that claim 31 would be allowable if rewritten to overcome the 35 U.S.C § 112 rejections.

In reliance on the Office's indication, the Applicant has amended claim 8 to stand independently including all limitations of base claim 1. It is submitted, therefore, that claim 8 is in condition for allowance. It is further submitted that claim 31, which has been amended to overcome the rejections under Section 112 as noted above, also is in condition for allowance. Still further, the Applicant submits that dependent claims 9, 10, 12-30, and 36-43 are allowable in that each depends from an allowable base claim and because each adds further patentable limitation thereto. Regarding withdrawn claims 2-7, 11, and 32-35, it is believed that they are

additionally entitled to consideration and allowance as depending from an allowable base claim.

Conclusion

Because no cited reference identically discloses the claimed invention and because there is no suggestion in the art to modify or combine any of the prior art references to approximate the claimed invention, the Applicant most respectfully submits that the claims now presented are patentable over the cited art. With this in mind, the Office's reconsideration and allowance of the specification and claims 2-43 are respectfully requested.

The Applicant believes that all issues raised in the Detailed Action have been responded to fully. However, if, after consideration of the above amendments and comments, there remain any open issues in this application that possibly can be resolved by a telephone interview, then the Applicant's undersigned attorney most respectfully requests that he be called to discuss and attempt to resolve those issues.

Dated: August 30, 2007

Respectfully submitted,

/Thomas P. O'Connell Reg. No. 37,997/

Thomas P. O'CONNELL, Esq.
Attorney for Applicant
Customer No. 20738
(781) 643-1845

O'Connell Law Office
Application No. 11/814,308

PATENT
File Reference: POB-501US

Certificate of Transmission

I hereby certify that this correspondence is being to the United States Patent and Trademark Office by use of the EFS-Web on this the 30th of August, 2007.

/Thomas P. O'Connell Reg. No. 37997/
Thomas P. O'Connell, Esq.

August 30, 2007
Date